



BriefCASE

Commentary about Legislative Issues in Colorado

August 16, 2011

Lobato trial enters week three

It goes against the grain of school leaders to have to admit that their schools are not "cutting it," for all students. But that is one of the central messages of the Lobato trial, which has entered into its third week with strong testimony that collectively and clearly says that the lack of adequate funding for schools has caused problems with our ability to meet the needs of all kids.

Adams County Superintendent Sue Chandler took the stand on Monday morning (8/15), and has been providing details of the difficulty in making cuts, while still meeting the needs of her student population. According to her testimony, most of her student population is economically challenged (79 percent are on free lunch), and speak English as a second language (55 percent are English Language Learners). Chandler said that Adams County 14 provides health and dental services in schools, as well as breakfast and nutritional services, because, "if you are not healthy, you are not learning."

She reviewed her school and district improvement plans and detailed efforts to get the kids to school, with "care teams" in an effort to reduce truancy. "If we had more resources, we would do more to keep kids in school," she said. "We have problems with school attendance and we try to build the habit of having kids there." She stressed that a school dropout costs the community and families.

As parents in Adams County and all across the state are gearing up, or are already into a new school year, they are realizing that more of the financial burden falls to them. Buying school supplies, paying for textbooks, class materials and extracurricular activities have never been more expensive and some districts are charging for bus transportation to school and full-day kindergarten, in order to save diminishing dollars for other critical purposes. In other areas teachers are paying for supplies out of their own pockets for students from families who just cannot afford any additional expenses.

The Colorado constitution is clear: we must provide a thorough and uniform public education system for all students. We need to do that in a way that accomplishes the goals set out by the state. That means meeting new academic standards and bringing all students to the goal of college and career readiness.

Four Key Ideas from the Plaintiff's in the Lobato Trail:

- **The court is the right venue for this fight**-The Colorado Supreme Court has determined that: 1) school districts have the right to participate in the Lobato lawsuit against the state, and; 2) that the courts have the authority (justiciability) to determine the outcome in a case that will determine if the state is supporting schools at a level that is sufficient to assure a thorough and uniform system of education. The Colorado Supreme Court has already determined that this trial should go forward precisely because our state constitution guarantees certain rights. Back in 1876, when Colorado formed as a state, our founders understood that the right to a thorough and uniform public education is the basis for full participation in our economy, and for all of our students to become fully functioning citizens. It is precisely because of our state's constitution that our current courts must play a part in determining if that indeed is occurring.
- **Money matters**-The testimony that has been shared from the witness stand provides solid evidence that when districts target their limited resources to certain populations (generally at-risk), we have seen results. Unfortunately current funding levels do not allow us to scale-up and

make changes for all kids and instead relegate schools to making incremental changes, or as **John Barry, Superintendent of Aurora Public Schools** said, "creating islands of excellence." If we continue on this same path, despite the fact that we do know what to do, our schools just cannot serve all kids. Witnesses have described in great detail the challenges faced in schools and classrooms. Educators from districts large and small absolutely agree that they could do so much more if Colorado was not underfunding public education. The fact remains that in 2008 Colorado was \$1,809 per pupil below the national average for school funding. And that miserable measure is before the last two years of significant cuts to K-12. Colorado is not even meeting the floor set for school funding by another constitutional measure, called Amendment 23. According to **former Treasurer Cary Kennedy**, who took the stand last week, Colorado is underfunding Amendment 23 to the tune of \$776 million. Just think about the learning and supports that could be provided to all students if we funded our schools at just the average of the other 50 states.

- **Victory in Lobato will require the legislature to fix a broken finance system**-It has never been a goal of this trial to force the state to pay a specific amount to K-12. Admittedly that amount is difficult to determine, but not impossible. There are methodologies that the state has already used to determine the costs for the Colorado Achievement Plan for Kids (CAP4K) that have been used by independent researchers to estimate what it would cost to make all schools more successful. We do know a lot about what works in schools and how we can get kids moving toward proficiency, closing achievement gaps and graduating students with the skills to succeed in schools and life. A victory in this case would place the constitutional provisions that protect children (the Education Clause and Amendment 23) on equal footing with the provisions that rule the budget.
- **Local control**-While the state has an obligation to provide for a thorough and uniform public education, the locus of control for instruction must remain in the domain of local school districts. Local decision making is guaranteed by the Colorado constitution and we believe that locally elected boards of education play a critical role in making sure that there is accountability and buy-in for how schools work. With more state mandates and less funding, there is becoming a major disconnect with the ability of local districts to deliver on the promise of the current reform efforts. CASE has supported the current slate of reforms underway: 1) new standards and assessments; 2) growth and postsecondary readiness data for school accountability and accreditation, and; 3) a focus on effective educators. However, for these efforts to be successful and implemented properly at the local level, additional revenues are sorely needed.

Well Said

Many witnesses have taken the stand in the first two weeks, and many are still to come. A significant number of CASE members have testified about how schools and districts work, especially in the face of the current funding environment. Superintendents, financial officers, senior district administrators, principals, teachers, parents, students, elected officials, and others, have shared their stories of the plight of K-12 schools.

The first part of the trial is centered on witnesses brought by the plaintiffs, ending this coming Friday with Linda Darling Hammond, a nationally-known education expert from Stanford University. Next week MALDEF (Mexican American Legal Defense and Education Fund) will bring its witnesses forward as a Plaintiff Intervener. Then the defense will bring forward its lineup of experts and witnesses.

Below is a sampling of remarks from witness testimony over the last few weeks:

Aurora Public Schools can't make further improvements "at the level and speed we want" under the current funding system. (John Barry, Aurora Public Schools Superintendent)

Boulder Valley School District (BVSD) has identified the root causes of low performance that can be addressed by the district, but lacks the resources to address them all. (Dr. Ellen Miller-Brown, Chief Academic Officer, BVSD)

The districts' long-time elementary principal and secondary school principals each took a pay cut this year to the first-year teacher salary level (Buck Stroh, Creede School District Superintendent)

There were so few textbooks for students at school that the students were offered extra credit by their teachers for purchasing a textbook and bringing it to class. (Parent in Pueblo 70 School District)

Money is about people and time. If we want kids to achieve what we're describing--all kids achieving at a high level--then we need a longer school year and need teachers for a longer amount of time. (Cindy Stevenson, Jefferson County School District Superintendent)

The state is in clear violation of Amendment 23. Amendment 23 was to increase funding for education, not decrease it. (Former Colorado State Treasurer Cary Kennedy)

We are not even preparing these students to enter the workforce; they are not competitive for even minimum wage jobs. We are not giving them the education they need to break the cycle of poverty or jail. (Anastasia Campbell, Teacher at an alternative high school, Colorado Springs District 11)

The average school building is between 50-52 years old. We need a \$1 million investment to buy new textbooks. (Dr. Brenda Krage, Assistant Superintendent for Learning Services, Pueblo 60)

Once an ELL student is enrolled in a district, they receive only two years of ELPA funding from the state, but research consistently says that it takes at least 4-7 years for a student to reach English proficiency. (Dr. Lisa Escarcega, Chief Accountability and Resource Officer, Aurora Public Schools)

I think there's a flaw when you develop a system based on the money available, and not based on actual need ...currently special education is tremendously underfunded. (Lucinda Hundley, retired Assistant Superintendent, Littleton Public Schools)

We need to raise productive citizens and get the kids to see Bethune is a small basket in a big world. (Shila Adolph, Superintendent, Bethune School District)

The strain on budgets due to underfunding....requires schools to use the general fund to continue to make progress and provide professional development for teachers. (Gerald Keefe, Superintendent, Kit Carson School District)

I don't blame anyone; schools are doing the best they can. My kids were not prepared to go to college and to get out there and get a job. (Grandparent from Adams County 14)

Jeffco does not have the resources to develop assessments for all grade levels in all subject areas. (Carol Eaton, Executive Director of Assessment and Research, Jefferson County Public Schools)

We are all in a state of decay (with regard to technology in the state) because of a lack of sustainable funding to keep the technology at the pace of the 21st century. (Dan Maas, Chief Information Officer, Littleton Public Schools)

Mill levy overrides that were designed to supplement local school programs must now be used to make up for state cuts. (David Hart, Chief Financial Officer, Denver Public Schools)

Upcoming scheduled witnesses

Tuesday, August 16:

- Steven Barnett (national expert on Early Childhood Education)
- Lori Gillis (Chief Financial Officer, Jefferson County Schools)
- Stefan Welsh (multi-media presentation about contrasting school districts)

Wednesday, August 17:

- Henry Levin (Economics Professor, Columbia University Teacher's College)
- Sue Windels (former State Senator)
- Jack Pommer (former State Representative and Chair of the Joint Budget Committee)

Plaintiff-intervenors MALDEF (Mexican American Legal Defense and Education Fund) are scheduled to begin their case on Thursday, Aug. 18.

- Tentative: MALDEF plaintiffs
- Tentative: Michael Clough (Superintendent of Sheridan School District)
- Tentative: Dr. Kathy Escamilla (Professor at CU)

Friday, August 19:

- In the morning: MALDEF plaintiffs
- In the afternoon: Linda Darling-Hammond (Stanford Professor, Nationally Recognized Education Expert)

For additional information about the Lobato trial, click [here](#).

Lobato attorneys to present at CASE Superintendents Conference

CASE is pleased to announce that a panel of plaintiff attorneys in the Lobato case, including Kathy Gebhardt and Alex Halpern, will be presenting at the upcoming 2011 CASE Superintendents Conference (September 22-23 in Colorado Springs). They'll provide their insights about the trial, what it means for K-12 funding in Colorado, and provide a look at what to expect next. This candid and timely presentation is one that you won't want to miss.

If you are a superintendent or BOCES director, we strongly encourage you to register for the conference by visiting www.co-case.org or calling CASE at (303)762-8762. For more information about the Superintendents Conference, click [here](#).

AASA and NSBA: Call Continues for Real Regulatory Relief for Schools

The American Association of School Administrators (AASA) and the National School Boards Association (NSBA) released the text of a [new letter](#) last week to U.S. Secretary of Education Arne Duncan again calling for targeted regulatory relief for the nation's schools. The letter urges the Department "to act quickly in a manner that matches its own promise around providing relief to the nation's schools."

The AASA/NSBA statement recognizes that the regulations around AYP (the ones that guide implementation) "are what are causing the high rate of mislabeling." Since regulations are the problem, it argues that targeted regulatory relief provides the most obvious answer: freezing the current sanctions levels to keep AYP and accountability in place while keeping the pressure on Congress to make substantive changes through the legislative process.

CDE announces focus groups on graduation guidelines

CDE has announced a series of focus groups to gather input about the proposed graduation guidelines that the State Board of Education will consider on or before December 15, 2011. To learn more, click [here](#).

Questions or Comments on this BriefCASE? Contact Bruce Caughey at 303.762.8762 x105 or bcaughey@co-case.org



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